

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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CALIFORNIA CAPITAL INSURANCE
COMPANY as subrogee of its
insureds Richard Carli and
Marguerite Carli,

Plaintiff,

v.

CNH INDUSTRIAL AMERICA LLC;
ALFAGOMMA AMERICA INC.; and DOES
1 through 25, inclusive,

Defendants.

No. 2:22-cv-02305 WBS KJN

MEMORANDUM AND ORDER RE:
DEFENDANT AFLAGOMMA AMERICA,
INC.'S MOTION TO DISMISS

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Plaintiff California Capital Insurance Company, as
subrogee of its insureds Richard Carli and Marguerite Carli
("insureds"), brought this action against defendants CNH
Industrial America LLC ("CNH Industrial") and Alfagomma America
Inc. ("Alfagomma") in California Superior Court alleging claims
for negligence and products liability. (Docket No. 1.)
Defendants removed the action to this court pursuant to 28 U.S.C.

1 § 1332. (Id.) Before the court is defendant Alfagomma's motion
2 to dismiss under Federal Rules of Civil Procedure 12(b)(2) and
3 12(b)(6). (Docket No. 13.) The court will first address the
4 motion under Rule 12(b)(2) and the issue of personal
5 jurisdiction.

6 Due process requires that for a nonresident defendant
7 to be subject to the court's jurisdiction, the defendant must
8 "have certain minimum contacts with [the forum state] such that
9 the maintenance of the suit does not offend traditional notions
10 of fair play and substantial justice." Int'l Shoe Co. v.
11 Washington, 326 U.S. 310, 316 (1945) (citation omitted). The
12 strength of contacts required depends on which of the two
13 categories of personal jurisdiction a litigant invokes: general
14 jurisdiction or specific jurisdiction. Ranza v. Nike, Inc., 793
15 F.3d 1059, 1068 (9th Cir. 2015) (citing Daimler AG v. Bauman, 571
16 U.S. 117, 126 (2014)).

17 General jurisdiction exists where a corporation "is
18 fairly regarded as at home." Goodyear Dunlop Tires Operations,
19 S.A. v. Brown, 564 U.S. 915, 924 (2011). A corporation is
20 considered "at home" in its place of incorporation and its
21 principal place of business. Daimler, 571 U.S. at 137. A
22 corporation is also considered "at home" where its "affiliations
23 with the State are so continuous and systematic as to render [it]
24 essentially at home in the forum State.'" Id. at 139 (internal
25 quotations and citation omitted). However, general jurisdiction
26 does not arise "in every State in which a corporation engages in
27 a substantial, continuous, and systematic course of business."
28 Id. at 138. Cf. Ford Motor Co. v. Montana Eighth Jud. Dist. Ct.,

1 141 S. Ct. 1017, 1024 (2021) (explaining that because general
2 jurisdiction “extends to any and all claims brought against a
3 defendant [o]nly a select set of affiliations with a
4 forum will expose a defendant to such sweeping jurisdiction”)
5 (citation and internal quotations omitted).

6 Specific jurisdiction, by contrast, exists when a case
7 “arise[s] out of or relate[s] to the defendant’s contacts with
8 the forum.” Daimler, 571 U.S. at 127 (citation and quotations
9 omitted). To be subject to specific jurisdiction, “[t]he
10 defendant . . . must take ‘some act by which [it] purposefully
11 avails itself of the privilege of conducting activities with the
12 forum State.’” Ford Motor Co., 141 S. Ct. at 124 (quoting Hanson
13 v. Denckla, 357 U.S. 235, 253 (1958)).

14 The Ninth Circuit uses a three-prong test to determine
15 whether specific jurisdiction exists: (1) “[t]he non-resident
16 defendant must purposefully direct his activities” towards the
17 forum state; (2) the claim must arise out of or relate to the
18 defendant’s forum-related activities; and (3) “the exercise of
19 jurisdiction must comport with fair play and substantial justice
20” Schwarzenegger v. Fred Martin Motor Co., 374 F.3d 797,
21 802 (9th Cir. 2004) (citation and internal quotations omitted).

22 Here, plaintiff fails to allege facts sufficient to
23 establish either general or specific jurisdiction. Alfagomma is
24 incorporated in Iowa and has its principal place of business in
25 Iowa. (See Notice of Removal at 2 (Docket No. 1).) In the
26 Complaint, plaintiff alleges that Alfagomma (1) sells and or
27 distributes its products in every county in California and (2)
28 “was in the business of constructing, designing, manufacturing,

1 assembling, distributing, and/or selling hydraulic components,
2 including . . . the hydraulic system installed in the
3 [tractor].”¹ (Compl. ¶¶ 5, 7.) Such allegations, without more,
4 are insufficient to establish either general or specific personal
5 jurisdiction in California. See Asahi Metal Indus. Co. v.
6 Superior Court of Cal., 480 U.S. 102, 112 (1987) (“The placement
7 of a product into the stream of commerce, without more, is not an
8 act of the defendant purposefully directed toward the forum
9 State” for purposes of specific jurisdiction); Daimler, 571 U.S.
10 at 139 (a corporation’s affiliations with the forum State must be
11 “so continuous and systematic as to render [it] essentially at
12 home” for purposes of general jurisdiction).

13 In the Opposition, plaintiff for the first time alleges
14 a relationship between the original seller of the tractor, the
15 supplier of the hydraulic system, and Alfagomma. (Opp’n at 6
16 (Docket No. 14).) Plaintiff contends that “[a]ny . . . Alfagomma
17 entities should expect a product they sell to a global company
18 would be sold and made available to sellers around the world,
19 such as in California, in this case.” (Id.) Ignoring the fact
20 that these allegations are nowhere in the Complaint, plaintiff’s
21 contention that a “global company” would know its products would

22 ¹ Alfagomma argues that the court lacks jurisdiction
23 because Alfagomma has never engaged in business operations,
24 advertised, or otherwise solicited business in California; is not
25 registered to do business in California; does not pay California
26 taxes; did not construct, design, manufacture, assemble,
27 distribute, or sell the tractor or hydraulic system at issue; and
28 did not place hydraulic system at issue into commerce. (See Mot.
at 3-4, 8-9 (Docket No. 13).) Further, Alfagomma argues that
“the [c]omplaint does not allege that Alfagomma sold this product
-- the hydraulic system at issue -- directly or purposefully into
California.” (Id. at 9) (emphasis in original).

1 be sold in California is insufficient to establish specific
2 jurisdiction. See Schwarzenegger v. 374 F.3d at 802 (plaintiff
3 must show that defendant "purposefully directed its activities
4 toward California"). See also Asahi, 480 U.S. at 112 ("[A]
5 defendant's awareness that the stream of commerce may or will
6 sweep the product into the forum State does not convert the mere
7 act of placing the product into the stream into an act
8 purposefully directed toward the forum State.").

9 Finally, plaintiff alleges that the relationship
10 between the original seller of the tractor, the supplier of the
11 hydraulic system, and Alfagomma is sufficient to establish
12 jurisdiction.² (Opp'n at 6-7.) The fact that the original
13 seller of the tractor may be subject to the court's jurisdiction
14 is insufficient to establish personal jurisdiction over
15 Alfagomma. See Bristol-Myers Squibb Co v. Superior Court of
16 Cal., 582 U.S. 255, 268 (2017) ("The bare fact that BMS
17 contracted with a California distributor is not enough to
18 establish personal jurisdiction in the State.").

19 Plaintiff has failed to allege that Alfagomma is
20 subject to either general or specific jurisdiction in California.
21 Accordingly, this court lacks personal jurisdiction over
22 Alfagomma, and must therefore grant the motion to dismiss.

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24 ² At oral argument, counsel for plaintiff asked the court
25 for leave to conduct jurisdictional discovery in the form of ten
26 interrogatories directed to discover the relationship between
27 Alfagomma and the original seller before ruling on the motion.
28 However, the information plaintiff purports to seek has already
been provided in some detail in the Uselli Declaration attached
as Exhibit 1 to Alfagomma's motion. (See Mot., Ex. 1 ("Uselli
Decl.") (Docket No. 13-1).) The court therefore sees no purpose
in permitting these interrogatories.

1 Because the court grants the motion under Rule 12(b)(2), it need
2 not address whether the complaint should be dismissed as against
3 Alfagomma under Rule 12(b)(6) for failure to state claims for
4 negligence and products liability. (See Mot. at 10-13.).

5 IT IS THEREFORE ORDERED that defendant Alfagomma's
6 motion to dismiss (Docket No. 13) be, and the same hereby is
7 GRANTED. Plaintiff has twenty days from the date of this Order
8 to file an amended complaint, if it can do so consistent with
9 this Order.

10 Dated: April 4, 2023



11 **WILLIAM B. SHUBB**
12 **UNITED STATES DISTRICT JUDGE**
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